

REMARKS

Applicant respectfully requests reconsideration and allowance of the application. Claims 1-49 and 51-52 are pending in this application.

Election/Restriction

The claims are subjected to a restriction requirement under 35 U.S.C. §121 as containing two patentably distinct inventions:

Group I. Claims 1-2, 12-22 and 51, drawn to an interface for database querying and retrieval, classified in Class 345, subclass 968.

Group II. Claims 3-11, 23-49, and 52, drawn to the display of windows in a Graphical User Interface, wherein users could interact with specific elements on the interface, classified in Class 345, subclass 764.

Applicant hereby elects, with traverse, to prosecute Group II (claims 3-11, 23-49, and 52) in the event that the restriction requirement is maintained. The election is made with traverse because Applicant respectfully submits that the restriction requirement is improper and should be withdrawn.

The Patent Rules state that a requirement for restriction "will normally be made before any action on the merits; however, it may be made at any time before final action." 37 C.F.R. §1.142(a).

In the current case, the restriction requirement was not made before any action on the merits, nor was it in the first Action on the merits or the second and final Action on the merits. Instead, the restriction requirement was not made until

after the filing of a Request for Continued Examination (RCE) in response to the preceding final Action in the case.

The Office could have brought the restriction requirement in an earlier Action prior to the filing of this continuation application. The requirement could have been more easily considered at an earlier time in prosecution. Applicant has now expended considerable resources responding to arguments made on the merits of all pending claims, only to have this effort thwarted by a late arriving restriction requirement.

The fact that some of the claims have been amended does not lessen the Office's obligation to bring the requirement in a timely fashion, particularly since the claims have not changed in substance in regards to the stated "distinctions". The Office indicates that the claims in Group I are drawn to "an interface for database querying and retrieval". The stated distinctiveness of the claims in Group I was present in these claims as filed, prior to any clarifying amendments in the previous amendments. The same can be said for the claims in Group II.

Furthermore, MPEP 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, *even though it includes claims to distinct or independent inventions*. (Emphasis added).

Applicant contends that both groups can be conveniently searched and examined together without burden to the Office. As supporting evidence, the Office has already issued two Actions on the merits in the case, including having already found allowable subject matter in both groups (claim 13 in Group I, and

claims 47 and 48 in Group II). Accordingly, the Office must examine the entire application on the merits, even though it might include claims to distinct or independent invention.

Conclusion

Applicant respectfully requests withdrawal of the restriction requirement, and issuance of the subject application.

Date: July 24, 2003

Respectfully Submitted,

By: [Signature] Reg. No. 34,658
for Allan T. Sponseller
Reg. No. 38,318
(509) 324-9256